

**TAX TIPS FOR  
RESTAURANT RETAILERS  
CONDUCTING BUSINESS IN DELAWARE**

**Things You Should Know**

**Definitions** 30 Del.C., Ch. 29

Every person engaged in the business of operating a restaurant, snack bar, soda fountain, take-out food service, catering service, private eating or drinking club, or other eating establishment is required to obtain an annual business license and pay a gross receipts tax on total gross receipts which exceeds \$80,000 per month. The service of food in hospitals, nursing and convalescent facilities, schools, child or elder care facilities and camps is not considered operating the business of a restaurant. Meals provided by an employer to its employees at no cost to the employee or food served in a cafeteria (which is operated by the employer) for which there is a charge is not considered operating a restaurant, provided access to such facility is limited to employees or contractors of the employer. Food served at Bed and Breakfast facilities, the charge for which is included in the cost of the room, is not considered operating a restaurant. Persons engaged in the business of providing meals and entertainment for a fixed price (Dinner Theatre) may allocate the amount received between their restaurant retailer and general services licenses based on the cost of the food and the cost of the entertainment.

**Gross Receipts**

Gross receipts includes total consideration received by a restaurant retailer for all food and beverages sold or services rendered within the State. Consideration for goods sold or services rendered includes cash, checks, credit cards, gift certificates, travelers checks, money orders, barter, manufacturer's coupons and rebates and any other consideration of any kind. Gross receipts includes amounts received from the sale of food and beverages including alcoholic beverages and mandatory gratuities.

**Gross Receipts Do Not Include:**

- 'In store' coupons
- Buy one, get one free specials

**Gross Receipts May Not be Reduced By:**

- Cost of property sold
- Cost of material and/or labor
- Interest, discount or delivery costs
- State or Federal taxes

**License and Gross Receipts Requirements**

A restaurant retailer is required to obtain a business license -- \$75 for the first location and \$25 for each additional location -- which must be renewed annually on or before December 31st of each year. Additionally, every restaurant retailer must pay a gross receipts tax at the rate of .499% (.00499) for taxable gross receipts received from selling tangible personal property. The first \$80,000 of gross receipts received per month (\$240,000 quarterly) are exempt from the gross receipts tax. Specific instructions are sent with the

personalized gross receipts coupon book. To register with the Division of Revenue and obtain a business license, complete a Combined Registration Application, available on the Internet and mail to the Division of Revenue with the appropriate fee.

#### **Tax Rates, Exclusions and Due Dates**

	<b>Tax Rate</b>	<b>Monthly Exclusion</b>
Restaurant Retailer	.00499	\$80,000
Sample Calculation	Total Gross Receipts	\$173,000
	Less Exclusion	<u>80,000</u>
	Taxable Gross Receipts	\$ <u>93,000</u>
	Tax Rate	X <u>.00499</u>
	Tax Due	\$ <u>464</u>

(Note: Delaware requires that tax due be rounded-off to the nearest dollar amount.)

#### **Due Dates of Returns**

New licensees will file on a quarterly basis through their first calendar year. The Division of Revenue will then perform a 'lookback' procedure and determine if the filing frequency should be changed.

Monthly Filers	20 <sup>th</sup> day of the following month
Quarterly Filers	last day of the first month after the end of the calendar quarter.

#### **Gross Receipts Tax Exemption**

Effective January 1, 1997, House Bill No. 678, exempts from business license gross receipts tax transactions between small, closely held firms. To qualify, the subject firms must be 80% owned by the same five or fewer shareholders, or 100% owned by the same family.

#### **Common Ownership/Direction**

Businesses which operate their separate branches by the use of separate operating corporations are only entitled to one monthly or quarterly exclusion for the enterprise to the extent that the corporations have common ownership or common direction and control.

#### **Caution Concerning Multiple Exclusions**

Nearly all licensees are permitted to reduce their monthly or quarterly gross receipts by certain specific exclusions in determining their taxable gross receipts. The Delaware Code limits the number of allowable exclusions for each general business activity. A taxpayer conducting a business activity for which an exclusion is provided is entitled to **ONLY ONE** monthly or quarterly exclusion regardless of the number of locations at which such activity is conducted. For example, a taxpayer who operates multiple convenience stores at which gasoline is also sold should aggregate the receipts from all goods sold at all locations and subtract only one monthly exclusion. Separate retail licenses are not required for the sale of food and petroleum products. While the Division of Revenue may assign a unique business code which reflects the primary product sold, retailers, wholesalers and manufacturers may sell or manufacture multiple product lines without obtaining a separate license for each product line.

However, separate licenses are required and separate exclusions are permitted if a taxpayer conducts more than one **ACTIVITY**, such as retailing and wholesaling.

### **Regulatory and Local Requirements**

The Business License Issued by the Division of Revenue is not a regulatory license and the issuance of such license does not attest to the qualifications of the applicant to perform the activity described on such license. Many local jurisdictions have requirements for a business license and may have restrictions concerning the locations of conducting the referenced business activity. Please check with the local government office in the town, city or county in which you will conduct your business.

The State of Delaware also has a Division of Professional Regulations. Many occupations and some types of equipment have regulatory requirements. Please contact the Division of Professional Regulation for more information.

### **General**

If you have any questions, please contact one of the following offices

<i><b>Wilmington</b></i>	<i><b>Dover</b></i>	<i><b>Georgetown</b></i>
Division of Revenue Carvel State Office Building 820 North French Street Wilmington DE 19801  (302) 577-8205	Division of Revenue Thomas Collins Building 540 South DuPont Highway Suite 2 Dover DE 19901  (302) 744-1085	Division of Revenue Suite 2 422 North DuPont Highway Georgetown DE 19947  (302) 856-5358

or by e-mail at: [william.kirby@state.de.us](mailto:william.kirby@state.de.us) (302) 577-8259

**DELAWARE DIVISION OF REVENUE**  
**GROSS RECEIPTS TAX RETURN - FORM LQ2 9501**

**LQ**

ACCOUNT NUMBER	TAX PERIOD ENDING	DUE ON OR BEFORE	BUSINESS CODE GROUP DESCRIPTION <b>393 RESTAURANT</b>
----------------	-------------------	------------------	--

**BUSINESS NAME AND ADDRESS**

1. TOTAL DELAWARE GROSS RECEIPTS	\$	00
2. LESS EXCLUSION (See Line Instructions)	\$	<b>240,000</b> 00
3. TAXABLE GROSS RECEIPTS	\$	00
4. LINE 3 X <b>0.00499</b>	\$	00
5. APPROVED TAX CREDITS	\$	00
6. BALANCE DUE (Subtract Line 5 from Line 4.)	\$	00

AUTHORIZED SIGNATURE I declare under penalties of perjury, that this is a true, correct and complete return.

DATE

TELEPHONE NUMBER

**Mail This Form With Remittance Payable To:**  
 Delaware Division of Revenue  
 P.O. Box 2340, Wilmington, DE 19899-2340  
 For questions, call (302) 577-8780

If desired, provide an e-mail address where we may contact you regarding this return.

E-MAIL ADDRESS

CUT ALONG THIS LINE AND SEND THE ABOVE PORTION WITH ANY PAYMENT DUE

**GROSS RECEIPTS TAX RETURN - QUARTERLY**

Complete the return above, sign, date and file by the due date. You may file all monthly or quarterly returns at the end of the year if no tax is due on any of the returns.

**To Update Your Contact/Business Information on File with Revenue:**

[Remit a License Request for Change form](#)

**To Change Tax Information You've Already Reported:**

[Remit an Amended return](#)

**SPECIFIC LINE INSTRUCTIONS**

**PLEASE NOTE: THE DIVISION OF REVENUE REQUIRES ROUNDING OF ALL AMOUNTS ON ALL GROSS RECEIPTS RETURNS.**

Line 1. - Enter on Line 1 the amount of your total Delaware gross receipts from sales, rents, services, or commissions for the tax period.

Line 2. - The maximum allowable quarterly exclusion, which is printed on your form, is \$240,000 for all Business Codes except the manufacturer's quarterly exclusion is \$3,000,000. (If you have more than one branch or entity with common ownership or common direction and control, you are only allowed one exclusion.)

Line 3. - Subtract Line 2 from Line 1 and enter the result on Line 3. If this is a negative amount or zero, enter zero on Line 3. (No tax is due. Sign, date and file this return.) **NOTE:** If your TAXABLE GROSS RECEIPTS (Line 3) is zero, you may delay filing your returns until you have tax due within the calendar year. However, you must file all returns for the calendar year by January 31<sup>st</sup> of the next year.

Line 4. - Multiply Line 3 by the gross receipts tax rate printed on the return. Enter the result on Line 4.

Line 5. - Enter on Line 5 approved Business Tax Credits (Travelink, Blue Collar Job, Green Industries. Taxpayers claiming these tax credits should refer to Form 402-LTR for specific instructions and attach a copy of Form 402-LTR to this return.

Line 6. - Subtract Line 5 from Line 4 and enter the result on Line 6. This amount of tax is due and payable with the filing of this return.

**If you have not already renewed this year's business license, do it now to avoid a \$200 penalty.**  
**Go to [www.delaware.gov](http://www.delaware.gov) to renew your business license online!**

**SAMPLE COMPLETED RETURN**

1. TOTAL DELAWARE GROSS RECEIPTS	\$	290,000.00
2. LESS EXCLUSION (See Line Instructions)	\$	<b>240,000.00</b>
3. TAXABLE GROSS RECEIPTS	\$	50,000.00
4. LINE 3 X <b>0.00499</b> =	\$	250.00
5. APPROVED TAX CREDITS	\$	34.00
6. BALANCE DUE (Subtract Line 5 from Line 4.)	\$	216.00

Quarterly Gross Receipts Tax Returns are due on or before the last day of the month following the end of the quarter as listed.

QUARTER END	DUE DATE	QUARTER END	DUE DATE
03/31/2006	05/01/2006	09/30/2006	10/31/2006
06/30/2006	07/31/2006	12/31/2006	01/31/2007

For questions or to speak with a customer service representative, please call Revenue's Gross Receipts Department at (302) 577-8780.

Forms ♦ Renew Business License ♦ [www.state.de.us/revenue](http://www.state.de.us/revenue) ♦ File Online ♦ Tax Tips